

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0257

CONTROLLED SUBSTANCE EXCISE TAX

FOR TAX PERIODS: 2001

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Issue

Controlled Substance Excise Tax: Imposition

Authority: IC 6-7-3-5.

The taxpayer protests the assessment of controlled substance excise tax.

Statement of Facts

The taxpayer was a registered nurse working at a hospital. During August and September of 2001, the taxpayer withdrew several doses of morphine, meperidine, hydrocodone, and temazepam from the hospital's Pyxis machine. The taxpayer was arrested for possession of controlled substances. On October 17, 2001, the taxpayer's county prosecutor indicated by letter to the Indiana Department of Revenue, hereinafter the "department," that there would be no criminal prosecution. The prosecutor also requested that the department investigate the possibility of assessing the controlled substance excise tax. The department issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on March 26, 2002 in a base tax amount of \$9,240.00. The taxpayer protested the assessment requesting a reduction in the amount assessed. A hearing was held. Further facts will be provided as necessary.

Controlled Substance Excise Tax: Imposition

Discussion

IC 6-7-3-5 imposes the controlled substance excise tax on the possession of Schedule II controlled substances. The taxpayer admits that he withdrew the controlled substances on which the tax was assessed from the hospital's Pyxis machine and ingested them. This possession of

the controlled substances is subject to the controlled substance excise tax. The department has no basis to reduce the amount due.

Finding

The taxpayer's protest is denied.

KA/JM/JS--022507